

REMARKS

Claims 1 to 36 are pending. Claims 19 to 29 have been withdrawn by the Office as directed to non-elected subject matter. Claim 1 has been amended to recite the subject matter with even greater particularity. New claim 36 has been added. Support for the new claim can be found throughout the specification, e.g., at page 12, col. 2, para. [0109] of the published application. The amendment and new claim adds no new matter to the application.

Withdrawn Rejections

Applicant acknowledges and thanks the Office for withdrawing all previous rejections in response to applicant's arguments.

35 USC § 103

Claims 1-18 and 30-35 were rejected under 35 U.S.C. 103(a) as allegedly unpatentable over Parsons et al. (U.S. Patent No. 6, 757,412) in view of Levenson et al. (U.S. Patent No. 6,750,964). Applicant respectfully traverses for the reasons discussed below.

Parsons describes, *inter alia*, a system and method of helping determine a condition of selected tissue of a patient based on a set of thermal images of the selected tissue acquired over a time period (see Parsons at Abstract). Parsons fails to teach, or even suggest, at least two elements recited in pending claim 1 (the sole independent and examined claim).

First, Parsons does not teach or suggest the step of “selecting at least one non-ROI at a pixel level of processing” as recited in claim 1 and described in applicant’s specification. The Office asserts that this limitation is taught in Parsons, stating (at page 4):

Each pixel is evaluated within the pre-selected region of interest whether it becomes a pixel of further interest or not. Therefore, many pixels may not be of value or classified into a region of further interest, but yet are still analyzed, which reads on selecting at least one non-ROI at a pixel level of processing.

However, applicant submits that this construction of Parsons is flawed. The Office has neglected to point to any portion of Parsons wherein one could glean such an understanding from Parsons’ description of selecting a region of interest (ROI). To construe Parsons as proposed by

the Office, one would have to read Parsons' description of "selecting an ROI" as somehow describing, e.g., "selecting a non-ROI within an ROI." Nothing in Parsons appears to warrant or support such a construction of Parsons' ROI selection step. Parsons does not appear to disclose, or even fairly suggest, selecting at least one non-ROI at a pixel level of processing..

Second, Parsons does not teach, or even suggest, ranking the extracted features from the ROI and non-ROI based on feature performance for successful detection of a selected ROI at a pixel level of processing, as recited in amended claim 1. As discussed above, Parsons does not disclose selecting a non-ROI and extracting two or more feature from the non-ROI at a pixel level of processing. Similarly, Parsons does not teach using those features, and features extracted from an ROI, in a step of ranking the features to successfully detect a selected ROI at a pixel level of processing.

Levenson, cited by the Office as a secondary reference, does not remedy the deficiencies of Parsons, the primary reference. Levenson describes, *inter alia*, a method for identifying target features from one or more images of an unknown sample. The method entails obtaining reference image cubes using a spectral illuminator, processing reference data and defining spectral weighting functions, illuminating the sample with the spectral weighting function and recording images, and processing images and identifying regions of interest (see, e.g., Levenson at col. 3, lines 37 to 67). Levenson, like Parsons, does not appear to teach, or even suggest, at least the step of "ranking the extracted features from the ROI and non-ROI based on feature performance for successful detection of a selected ROI at a pixel level of processing." Thus, even if Levenson were somehow combined with the disclosure of Parsons, the presently claimed methods would not have been obtained because at least this step would be missing from the combination.

Thus, the Office has not established a *prima facie* case of obviousness against claim 1 because, *inter alia*, these publications do not teach or suggest all steps recited in these claims. Claims 2 to 18 and 30 to 36 each depend from claim 1 and are therefore not obvious over Parsons and Levenson for at least the reasons discussed above. Neither Parsons nor Levenson,

Applicant : David H. Kil  
Serial No. : 10/662,765  
Filed : September 15, 2003  
Page : 12 of 12

Attorney's Docket No.: 14255-035001 / IP-0400MDUS

individually or in combination, renders the present claims obvious. Accordingly, applicant requests that the present rejection be reconsidered and withdrawn.

CONCLUSION

Applicant requests that all rejections be reconsidered and withdrawn. Enclosed is a Petition for a One-Month Extension of Time. The extension of time and additional claim fees in the amount of \$85.00 are being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply any other charges or credits to deposit account 06-1050, referencing Attorney Docket No. 14255-035001.

Respectfully submitted,

Date: May 8, 2008

  
\_\_\_\_\_  
Todd E. Garcia  
Reg. No. 54,112

Fish & Richardson P.C.  
225 Franklin Street  
Boston, MA 02110  
Telephone: (617) 542-5070  
Facsimile: (617) 542-8906

21917229.doc